

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IVAN MARTINEZ,

Plaintiff,

v.

Civil Action No. 05-11446-GAO

COMMONWEALTH OF MASSACHUSETTS, et al.,

Defendants.

ORDER ON SCREENING PURSUANT
TO SECTIONS 1915(e)(2) AND/OR 1915A

Having completed the screening on the merits of plaintiff's complaint pursuant to Sections 1915(e)(2) and/or 1915A:

FINDINGS

1. The complaint is frivolous, malicious, or fails to state a claim upon which relief may be granted:

No Yes as to defendant(s) Commonwealth of Massachusetts, City of Lowell and Middlesex County.

2. The complaint seeks relief from a defendant or defendants who are immune from such relief:

No Yes as to defendant(s) Commonwealth of Massachusetts.

3. Section 1997e(g)(2) provides that:

"The court may require any defendant to reply to a complaint brought under this section if it finds that the plaintiff has a reasonable opportunity to prevail on the merits."

42 U.S.C. § 1997e(g)(2).

Is the complaint sufficient to satisfy the pleading requirements for stating a cognizable claim and does the plaintiff have a reasonable opportunity to prevail on the merits against one or more defendants?

- a. Yes The Court has so determined and found as to defendant(s):

b. No because the Court has determined that the complaint does not satisfy pleading requirements for stating a cognizable claim against:

all defendants the defendant(s)

c. No because the Court has determined that the likelihood that plaintiff will prevail on the merits falls short of the "reasonable opportunity" standard of the statute, as to claims against:

all defendants the defendant(s)

d. Cannot say

It is not feasible for the Court to make a determination on these questions on the present record as to claims against:

all defendants the defendant(s)

ORDERS

Based upon the foregoing:

1. The Clerk shall issue summonses and the United States Marshal serve a copy of the complaint, summons and this order as directed by the plaintiff with all costs of service to be advanced by the United States?

No Yes as to all defendants
 only as to defendant(s)

2. The Clerk shall dismiss this action unless, on or before the 42nd day from the date of this Order, plaintiff has filed a submission showing good cause why the

Court should find that the pleading is sufficient to state a cognizable claim and that plaintiff will have a reasonable opportunity to prevail on the merits of plaintiff's claims against defendant(s)?

No Yes as to all defendants
 only as to defendant(s)

3. a. Although defendant(s) may not have been served with a summons and complaint, are the defendant(s) invited but not required to file an answer to aid the Court in reaching a prompt final disposition on the merits?

No Yes as to all defendants
 only as to defendant(s)

OR

b. If the defendant(s) have been served with a summons and complaint, are the defendant(s) required to reply within the time specified in the summons?

No Yes as to all defendants
 only as to defendant(s)

November 30, 2005
DATE

/s/ George A. O'Toole, Jr.
UNITED STATES DISTRICT JUDGE